

IC 24-4.5-2

Chapter 2. Credit Sales

IC 24-4.5-2-101

Short title

Sec. 101. Short Title - This Chapter shall be known and may be cited as Uniform Consumer Credit Code - Credit Sales.
(Formerly: Acts 1971, P.L.366, SEC.3.)

IC 24-4.5-2-102

Scope

Sec. 102. This chapter applies to consumer credit sales, including home solicitation sales, and consumer leases. In addition, IC 24-4.5-2-601 through IC 24-4.5-2-605 apply to consumer related sales.
(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by P.L.152-1986, SEC.60.

IC 24-4.5-2-103

Definitions in chapter

Sec. 103. Definitions in Chapter The following definitions apply to this Article and appear in this Chapter as follows:

| | |
|--|-------------------|
| "Amount financed" | Section 2-111 |
| "Annual percentage rate" | Section 2-304 (2) |
| "Cash price" | Section 2-110 |
| "Consumer credit sale" | Section 2-104 |
| "Consumer lease" | Section 2-106 |
| "Consumer related sale" | Section 2-602 |
| "Corresponding nominal annual percentage rate" | Section 2-304 (3) |
| "Credit service charge" | Section 2-109 |
| "Goods" | Section 2-105 (1) |
| "Home solicitation sale" | Section 2-501 |
| "Merchandise certificate" | Section 2-105 (2) |
| "Precomputed" | Section 2-105 (7) |
| "Revolving charge account" | Section 2-108 |
| "Sale of goods" | Section 2-105 (4) |
| "Sale of an interest in land" | Section 2-105 (6) |
| "Sale of services" | Section 2-105 (5) |
| "Seller" | Section 2-107 |
| "Services" | Section 2-105 (3) |

(Formerly: Acts 1971, P.L.366, SEC.3.)

IC 24-4.5-2-104

Definition; "consumer credit sale"

Sec. 104. (1) Except as provided in subsection (2), "consumer credit sale" is a sale of goods, services, or an interest in land in which:

- (a) credit is granted by a person who regularly engages as a seller in credit transactions of the same kind;
- (b) the buyer is a person other than an organization;

- (c) the goods, services, or interest in land are purchased primarily for a personal, family, or household purpose;
- (d) either the debt is payable in installments or a credit service charge is made; and
- (e) with respect to a sale of goods or services, either the amount financed does not exceed fifty thousand dollars (\$50,000) or the debt is secured by personal property used or expected to be used as the principal dwelling of the buyer.

(2) Unless the sale is made subject to this article by agreement (IC 24-4.5-2-601), "consumer credit sale" does not include:

- (a) a sale in which the seller allows the buyer to purchase goods or services pursuant to a lender credit card or similar arrangement; or
- (b) except as provided with respect to disclosure (IC 24-4.5-2-301), debtors' remedies (IC 24-4.5-5-201), providing payoff amounts (IC 24-4.5-2-209), and powers and functions of the department (IC 24-4.5-6-101), a sale of an interest in land which is a mortgage transaction (as defined in IC 24-4.5-1-301(17)).

(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by Acts 1981, P.L.218, SEC.3; P.L.247-1983, SEC.2; P.L.14-1992, SEC.12; P.L.122-1994, SEC.8; P.L.172-1997, SEC.2; P.L.23-2000, SEC.3.

IC 24-4.5-2-105

Definitions; "goods"; "merchandise certificate"; "services"; "sale of goods"; "sale of services"; "sale of an interest in land"; "precomputed"

Sec. 105. Definitions: "Goods"; "Merchandise Certificate"; "Services"; "Sale of Goods"; "Sale of Services"; "Sale of an Interest in Land"; "Precomputed".

(1) "Goods" includes goods not in existence at the time the transaction is entered into and merchandise certificates, but excludes money, chattel paper, documents of title, and instruments.

(2) "Merchandise certificate" means a writing issued by a seller not redeemable in cash and usable in its face amount in lieu of cash in exchange for goods or services.

(3) "Services" includes (a) work, labor, and other personal services, (b) privileges with respect to transportation, hotel and restaurant accommodations, education, entertainment, recreation, physical culture, hospital accommodations, funerals, cemetery accommodations, and the like, and (c) insurance provided by a person other than the insurer.

(4) "Sale of goods" includes any agreement in the form of a bailment or lease of goods if the bailee or lessee agrees to pay as compensation for use a sum substantially equivalent to or in excess of the aggregate value of the goods involved and it is agreed that the bailee or lessee will become, or for no other or a nominal consideration has the option to become, the owner of the goods upon full compliance with his obligations under the agreement.

(5) "Sale of services" means furnishing or agreeing to furnish services and includes making arrangements to have services furnished

by another.

(6) "Sale of an interest in land" includes a lease in which the lessee has an option to purchase the interest and all or a substantial part of the rental or other payments previously made by him are applied to the purchase price.

(7) A sale, refinancing, or consolidation is "precomputed" if the debt is expressed as a sum comprising the amount financed and the amount of the credit service charge computed in advance.

(Formerly: Acts 1971, P.L.366, SEC.3.)

IC 24-4.5-2-106

Definition; "consumer lease"

Sec. 106. (1) "Consumer lease" means a lease of goods:

- (a) which a lessor regularly engaged in the business of leasing makes to a person, other than an organization, who takes under the lease primarily for a personal, family, or household purpose;
- (b) in which the amount payable under the lease does not exceed fifty thousand dollars (\$50,000); and
- (c) which is for a term exceeding four (4) months.

(2) "Consumer lease" does not include a lease made pursuant to a lender credit card or similar arrangement.

(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by P.L.247-1983, SEC.3; P.L.122-1994, SEC.9.

IC 24-4.5-2-107

Definition; "seller"

Sec. 107. Definition; "Seller" - Except as otherwise provided, "seller" includes an assignee of the seller's right to payment but use of the term does not in itself impose on an assignee any obligation of the seller with respect to events occurring before the assignment.

(Formerly: Acts 1971, P.L.366, SEC.3.)

IC 24-4.5-2-108

Definition; "revolving charge account"

Sec. 108. Definition: "Revolving Charge Account" - "Revolving charge account" means an arrangement between a seller and a buyer pursuant to which (1) the seller may permit the buyer to purchase goods or services on credit either from the seller or pursuant to a seller credit card, (2) the unpaid balances of amounts financed arising from purchases and the credit service and other appropriate charges are debited to an account, (3) a credit service charge if made is not precomputed but is computed on the outstanding unpaid balances of the buyer's account from time to time, and (4) the buyer has the privilege of paying the balances in instalments.

(Formerly: Acts 1971, P.L.366, SEC.3.)

IC 24-4.5-2-109

Definition; "credit service charge"

Sec. 109. "Credit service charge" means the sum of:

- (1) all charges payable directly or indirectly by the buyer and imposed directly or indirectly by the seller as an incident to the

extension of credit, including any of the following types of charges which are applicable: time price differential, service, carrying or other charge, however denominated, premium or other charge for any guarantee or insurance protecting the seller against the buyer's default or other credit loss; and

(2) charges incurred for investigating the collateral or credit-worthiness of the buyer.

The term does not include charges as a result of default, additional charges (IC 24-4.5-2-202), delinquency charges (IC 24-4.5-2-203.5), or deferral charges (IC 24-4.5-2-204). The term does not include charges paid or payable to a third party that are not required by the seller as a condition or incident to the extension of credit except for borrower paid mortgage broker fees, including fees paid directly to the broker or the seller (for delivery to the broker), whether the fees are paid in cash or financed. However, borrower paid mortgage broker fees do not include fees paid to a mortgage broker by a creditor, including yield spread premiums and service release fees.

(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by P.L.247-1983, SEC.4; P.L.14-1992, SEC.13; P.L.2-1995, SEC.90; P.L.172-1997, SEC.3.

IC 24-4.5-2-110

Definition; "cash price"

Sec. 110. Definition: "Cash Price" - Except as the department may prescribe by rule, the "cash price" of goods, services, or an interest in land means the price at which the goods, services, or interest in land are offered for sale by the seller to cash buyers in the ordinary course of business, and may include (1) applicable sales, use, and excise and documentary fees, (2) the cash price of accessories or related services such as delivery, installation, servicing, repairs, alterations, service contracts, and improvements, and (3) amounts actually paid or to be paid by the seller for registration, certificate of title, or license fees. The cash price stated by the seller to the buyer pursuant to the provisions on disclosure (Part 3) of this Chapter is presumed to be the cash price.

(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by P.L.14-1992, SEC.14; P.L.122-1994, SEC.10.

IC 24-4.5-2-111

Definition; "amount financed"

Sec. 111. Definition: "Amount Financed" - "Amount financed" means the total of the following to the extent that payment is deferred:

(1) the cash price of the goods, services, or interest in land less the amount of down payment whether made in cash or property;

(2) the amount actually paid or to be paid by the seller pursuant to an agreement with the buyer to discharge a security interest or lien on property traded in; and

(3) if not included in the cash price:

(a) any applicable sales, use, excise or documentary fees;

(b) amounts actually paid or to be paid by the seller for registration, certificate of title, or license fees; and

(c) additional charges permitted by this Chapter (IC

24-4.5-2-202).
(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by P.L.122-1994,
SEC.11.

IC 24-4.5-2-201

Credit service charge for consumer credit sales other than revolving charge accounts

Sec. 201. Credit Service Charge for Consumer Credit Sales other than Revolving Charge Accounts-(1) With respect to a consumer credit sale, other than a sale pursuant to a revolving charge account, a seller may contract for and receive a credit service charge not exceeding that permitted by this section.

(2) The credit service charge, calculated according to the actuarial method, may not exceed the equivalent of the greater of either of the following:

- (a) the total of:
 - (i) thirty-six percent (36%) per year on that part of the unpaid balances of the amount financed which is three hundred dollars (\$300) or less;
 - (ii) twenty-one percent (21%) per year on that part of the unpaid balances of the amount financed which is more than three hundred dollars (\$300) but does not exceed one thousand dollars (\$1,000); and
 - (iii) fifteen percent (15%) per year on that part of the unpaid balances of the amount financed which is more than one thousand dollars (\$1,000); or
- (b) twenty-one percent (21%) per year on the unpaid balances of the amount financed.

(3) This section does not limit or restrict the manner of contracting for the credit service charge, whether by way of add-on, discount, or otherwise, so long as the rate of the credit service charge does not exceed that permitted by this section. If the sale is precomputed:

- (a) the credit service charge may be calculated on the assumption that all scheduled payments will be made when due; and
- (b) the effect of prepayment is governed by the provisions on rebate upon prepayment (IC 24-4.5-2-210).

(4) For the purposes of this section, the term of a sale agreement commences with the date the credit is granted or, if goods are delivered or services performed more than thirty (30) days after that date, with the date of commencement of delivery or performance except as set forth below:

- (a) Delays attributable to the customer. Where the customer requests delivery after the thirty (30) day period or where delivery occurs after the thirty (30) day period for a reason attributable to the customer (including but not limited to failure to close on a residence or failure to obtain lease approval), the term of the sale agreement shall commence with the date credit is granted.
- (b) Partial Deliveries. Where any portion of the order has been delivered within the thirty (30) day period, the term of the sale agreement shall commence with the date credit is granted.

Differences in the lengths of months are disregarded and a day may be

counted as one-thirtieth (1/30) of a month. Subject to classifications and differentiations the seller may reasonably establish, a part of a month in excess of fifteen (15) days may be treated as a full month if periods of fifteen (15) days or less are disregarded and that procedure is not consistently used to obtain a greater yield than would otherwise be permitted.

(5) Subject to classifications and differentiations the seller may reasonably establish, he may make the same credit service charge on all amounts financed within a specified range. A credit service charge so made does not violate subsection (2) if:

(a) when applied to the median amount within each range, it does not exceed the maximum permitted by subsection (2); and

(b) when applied to the lowest amount within each range, it does not produce a rate of credit service charge exceeding the rate calculated according to paragraph (a) by more than eight percent (8%) of the rate calculated according to paragraph (a).

(6) Notwithstanding subsection (2), the seller may contract for and receive a minimum credit service charge of not more than thirty dollars (\$30).

(7) The amounts of three hundred dollars (\$300) and one thousand dollars (\$1,000) in subsection (2) are subject to change pursuant to the provisions on adjustment of dollar amounts (IC 24-4.5-1-106).

(8) The amount of thirty dollars (\$30) in subsection (6) is subject to change under the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the Reference Base Index to be used under this subsection is the Index for October 1992.

(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by Acts 1981, P.L.219, SEC.1; P.L.14-1992, SEC.15; P.L.79-1998, SEC.26; P.L.80-1998, SEC.4.

IC 24-4.5-2-202

Additional charges

Sec. 202. (1) In addition to the credit service charge permitted by IC 24-4.5-2-201 through IC 24-4.5-2-210, a seller may contract for and receive any of the following additional charges in connection with a consumer credit sale:

(a) Official fees and taxes.

(b) Charges for insurance as described in subsection (2).

(c) Notwithstanding provisions of the Federal Consumer Credit Protection Act concerning disclosure, charges for other benefits, including insurance, conferred on the buyer, if the benefits are of value to him and if the charges are reasonable in relation to the benefits, are of a type which is not for credit and are excluded as permissible additional charges from the credit service charge. With respect to any additional charge not specifically provided for in this section, to be a permitted charge under this subsection the seller must submit a written explanation of the charge to the department indicating how the charge would be assessed and the value or benefit to the buyer. Supporting documents may be required by the department. The department shall determine

whether the charge would be of benefit to the buyer and is reasonable in relation to the benefits.

(d) A charge not to exceed twenty dollars (\$20) for each return by a bank or other depository institution of a dishonored check, negotiable order of withdrawal, or share draft issued by the debtor.

(e) Annual or periodic participation fees assessed in connection with a revolving charge account.

(2) An additional charge may be made for insurance written in connection with the sale, other than insurance protecting the seller against the buyer's default or other credit loss:

(a) with respect to insurance against loss of or damage to property, or against liability, if the seller furnishes a clear and specific statement in writing to the buyer, setting forth the cost of the insurance if obtained from or through the seller and stating that the buyer may choose the person, subject to the seller's reasonable approval, through whom the insurance is to be obtained; and

(b) with respect to consumer credit insurance providing life, accident, unemployment or other loss of income, or health coverage, if the insurance coverage is not a factor in the approval by the seller of the extension of credit and is clearly disclosed in writing to the buyer, and if, in order to obtain the insurance in connection with the extension of credit, the buyer gives specific, affirmative, written indication of the desire to do so after written disclosure of the cost.

(3) With respect to a debt secured by an interest in land, the following closing costs, if the costs are bona fide, reasonable in amount, and not for the purpose of circumvention or evasion of this article:

(a) fees for title examination, abstract of title, title insurance, property surveys, or similar purposes;

(b) fees for preparing deeds, mortgages, and reconveyance, settlement, and similar documents;

(c) notary and credit report fees;

(d) amounts required to be paid into escrow or trustee accounts if the amounts would not otherwise be included in the loan finance charge; and

(e) appraisal fees.

(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by P.L.247-1983, SEC.5; P.L.181-1991, SEC.1; P.L.14-1992, SEC.16; P.L.122-1994, SEC.12; P.L.45-1995, SEC.4; P.L.80-1998, SEC.5.

IC 24-4.5-2-203

Repealed

(Repealed by P.L.122-1994, SEC.122.)

IC 24-4.5-2-203.5

Delinquency charges

Sec. 203.5. Delinquency Charges † (1) With respect to a consumer credit sale, refinancing, or consolidation, the parties may contract for

a delinquency charge of not more than five dollars (\$5) on any installment or minimum payment due not paid in full within ten (10) days after its scheduled due date.

(2) A delinquency charge under this section may be collected only once on an installment however long it remains in default. A delinquency charge on consumer credit sales made under a revolving charge account may be applied each month that the payment is less than the minimum required payment. A delinquency charge may be collected any time after it accrues. No delinquency charge may be collected if the installment has been deferred and a deferral charge (IC 24-4.5-2-204) has been paid or incurred.

(3) A delinquency charge may not be collected on an installment or payment due that is paid in full within ten (10) days after its scheduled due date even though an earlier maturing installment, minimum payment, or a delinquency charge on:

(a) an earlier installment; or

(b) payment due;

may not have been paid in full. For purposes of this subsection, payments are applied first to current installments or payments due and then to delinquent installments or payments due.

(4) If two (2) installments or parts of two (2) installments of a precomputed consumer credit sale are in default for ten (10) days or more, the creditor may elect to convert the consumer credit sale from a precomputed consumer credit sale to a consumer credit sale in which the credit service charge is based on unpaid balances. A creditor that makes this election shall make a rebate under the provisions on rebates upon prepayment under IC 24-4.5-2-210 as of the maturity date of the first delinquent installment, and thereafter may make a credit service charge as authorized by the provisions on credit service charges for consumer credit sales under IC 24-4.5-2-201. The amount of the rebate shall not be reduced by the amount of any permitted minimum charge under IC 24-4.5-2-210. Any deferral charges made on installments due at or after the maturity date of the first delinquent installment shall be rebated, and no further deferral charges shall be made.

(5) The amount of five dollars (\$5) in subsection (1) is subject to change under the section on adjustment of dollar amounts (IC 24-4.5-1-106).

(6) If the parties provide by contract for a delinquency charge that is subject to change, the seller shall disclose in the contract that the amount of the delinquency charge is subject to change as allowed by IC 24-4.5-1-106.

As added by P.L.247-1983, SEC.6. Amended by P.L.181-1991, SEC.2; P.L.115-1992, SEC.1; P.L.122-1994, SEC.13; P.L.45-1995, SEC.5.

IC 24-4.5-2-204

Deferral charges

Sec. 204. Deferral Charges - (1) With respect to a precomputed consumer credit sale, refinancing, or consolidation, the parties before or after default may agree in writing to a deferral of all or part of one or more unpaid instalments, and the seller may make and collect a charge not exceeding the rate previously stated to the buyer pursuant

to the provisions on disclosure (Part 3) applied to the amount or amounts deferred for the period of deferral calculated without regard to differences in lengths of months, but proportionately for a part of a month, counting each day as one-thirtieth (1/30) of a month. A deferral charge may be collected at the time it is assessed or at any time thereafter.

(2) The seller, in addition to the deferral charge, may make appropriate additional charges (24-4.5-2-202), and the amount of these charges which is not paid in cash may be added to the amount deferred for the purpose of calculating the deferral charge.

(3) The parties may agree in writing at the time of a precomputed consumer credit sale, refinancing, or consolidation that if an instalment is not paid within ten (10) days after its due date, the seller may unilaterally grant a deferral and make charges as provided in this section. No deferral charge may be made for a period after the date that the seller elects to accelerate the maturity of the agreement.

(4) A delinquency charge made by the seller on an instalment may not be retained if a deferral charge is made pursuant to this section with respect to the period of delinquency.

(Formerly: Acts 1971, P.L.366, SEC.3.)

IC 24-4.5-2-205

Credit service charge on refinancing

Sec. 205. Credit Service Charge on Refinancing - With respect to a consumer credit sale, refinancing, or consolidation, the seller may by agreement with the buyer refinance the unpaid balance and may contract for and receive a credit service charge based on the amount financed resulting from the refinancing at a rate not exceeding that permitted by the provisions on credit service charge for consumer credit sales (IC 24-4.5-2-201). For the purpose of determining the credit service charge permitted, the amount financed resulting from the refinancing comprises the following:

(1) If the transaction was not precomputed, the total of the unpaid balance and accrued charges on the date of refinancing, or, if the transaction was precomputed, the amount which the buyer would have been required to pay upon prepayment pursuant to the provisions on rebate upon prepayment (IC 24-4.5-2-210) on the date of refinancing.

(2) Appropriate additional charges (IC 24-4.5-2-202), payment of which is deferred.

(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by P.L.14-1992, SEC.17.

IC 24-4.5-2-206

Credit service charge on consolidation

Sec. 206. Credit Service Charge on Consolidation - If a buyer owes an unpaid balance to a seller with respect to a consumer credit sale, refinancing, or consolidation, and becomes obligated on another consumer credit sale, refinancing, or consolidation with the same seller, the parties may agree to a consolidation resulting in a single schedule of payments pursuant to either of the following subsections:

(1) The parties may agree to refinance the unpaid balance with

respect to the previous sale pursuant to the provisions on refinancing (24-4.5-2-205) and to consolidate the amount financed resulting from the refinancing by adding it to the amount financed with respect to the subsequent sale. The seller may contract for and receive a credit service charge based on the aggregate amount financed resulting from the consolidation at a rate not exceeding that permitted by the provisions on credit service charge for consumer credit sales (24-4.5-2-201).

(2) The parties may agree to consolidate by adding together the unpaid balances with respect to the two sales.

(Formerly: Acts 1971, P.L.366, SEC.3.)

IC 24-4.5-2-207

Credit service charge for revolving charge accounts

Sec. 207. Credit Service Charge for Revolving Charge Accounts⁽¹⁾
With respect to a consumer credit sale made pursuant to a revolving charge account, the parties to the sale may contract for the payment by the buyer of a credit service charge not exceeding that permitted in this section.

(2) A charge may be made in each billing cycle which is a percentage of an amount no greater than

- (a) the average daily balance of the account,
- (b) the unpaid balance of the account on the same day of the billing cycle, or
- (c) the median amount within a specified range within which the average daily balance of the account or the unpaid balance of the account on the same day of the billing cycle is included. A charge may be made pursuant to this paragraph only if the seller, subject to classification and differentiations he may reasonably establish, makes the same charge on all balances within the specified range and if the percentage when applied to the median amount within the range does not produce a charge exceeding the charge resulting from applying that percentage to the lowest amount within the range by more than eight percent (8%) of the charge on the median amount.

(3) If the billing cycle is monthly, the charge may not exceed one and three-fourths percent (1 3/4%) of the amount pursuant to subsection (2). If the billing cycle is not monthly, the maximum charge is that percentage which bears the same relation to the applicable monthly percentage as the number of days in the billing cycle bears to thirty (30). For the purposes of this section, a variation of not more than four (4) days from month to month is "the same day of the billing cycle."

(4) Notwithstanding subsection (3), if there is an unpaid balance on the date as of which the credit service charge is applied, the seller may contract for and receive a charge not exceeding fifty cents (\$.50), if the billing cycle is monthly or longer, or the pro rata part of fifty cents (\$.50) which bears the same relation to fifty cents (\$.50) as the number of days in the billing cycle bears to thirty (30) if the billing cycle is shorter than monthly.

(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by Acts 1981,

P.L.219, SEC.2; Acts 1982, P.L.150, SEC.1.

IC 24-4.5-2-208

Advances to perform covenants of buyer

Sec. 208. Advances to Perform Covenants of Buyer - (1) If the agreement with respect to a consumer credit sale, refinancing, or consolidation contains covenants by the buyer to perform certain duties pertaining to insuring or preserving collateral and the seller pursuant to the agreement pays for performance of the duties on behalf of the buyer, the seller may add the amounts paid to the debt. Within a reasonable time after advancing any sums, he shall state to the buyer in writing the amount of the sums advanced, any charges with respect to this amount, and any revised payment schedule and, if the duties of the buyer performed by the seller pertain to insurance, a brief description of the insurance paid for by the seller including the type and amount of coverages. No further information need be given.

(2) A credit service charge may be made for sums advanced pursuant to subsection (1) at a rate not exceeding the rate stated to the buyer pursuant to the provisions on disclosure (Part 3) with respect to the sale, refinancing or consolidation, except that with respect to a revolving charge account the amount of the advance may be added to the unpaid balance of the account and the seller may make a credit service charge not exceeding that permitted by the provisions on credit service charge for revolving charge accounts (24-4.5-2-207).

(Formerly: Acts 1971, P.L.366, SEC.3.)

IC 24-4.5-2-209

Right to prepay

Sec. 209. Right to Prepay - (1) Subject to the provisions on rebate upon prepayment (IC 24-4.5-2-210), the buyer may prepay in full the unpaid balance of a consumer credit sale, refinancing, or consolidation at any time without penalty.

(2) At the time of prepayment of a credit sale not subject to the provisions of rebate upon prepayment (IC 24-4.5-2-210), the total credit service charge, including the prepaid credit service charge, may not exceed the maximum charge allowed under this chapter for the period the credit sale was in effect.

(3) The creditor or mortgage servicer shall provide an accurate payoff of the consumer credit sale to the debtor within ten (10) calendar days after the creditor or mortgage servicer receives the debtor's written request for the accurate consumer credit sale payoff amount. A creditor or mortgage servicer who fails to provide the accurate consumer credit sale payoff amount is liable for:

(A) one hundred dollars (\$100) if an accurate consumer credit sale payoff amount is not provided by the creditor or mortgage servicer within ten (10) calendar days after the creditor or mortgage servicer receives the debtor's first written request; and

(B) the greater of:

(i) one hundred dollars (\$100); or

(ii) the credit service charge that accrues on the sale from

the date the creditor or mortgage servicer receives the first written request until the date on which the accurate consumer credit sale payoff amount is provided;
if an accurate consumer credit sale payoff amount is not provided by the creditor or mortgage servicer within ten (10) calendar days after the creditor or mortgage servicer receives the debtor's second written request, and the creditor or mortgage servicer failed to comply with clause (A).

A liability under this subsection is an excess charge under IC 24-4.5-5-202.

(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by P.L.23-2000, SEC.5; P.L.63-2001, SEC.2 and P.L.134-2001, SEC.2.

IC 24-4.5-2-210

Rebate upon prepayment

Sec. 210. Rebate upon Prepayment (1) Except as provided in subsection (2), upon prepayment in full of the unpaid balance of a precomputed consumer credit sale, refinancing, or consolidation, an amount not less than the unearned portion of the credit service charge calculated according to this section shall be rebated to the buyer. If the rebate required is less than one dollar (\$1), no rebate need be made.

(2) Upon prepayment in full of a consumer credit sale, refinancing, or consolidation, other than one pursuant to a revolving charge account, if the credit service charge then earned is less than any permitted minimum credit service charge (IC 24-4.5-2-201(6)) contracted for, whether or not the sale, refinancing, or consolidation is precomputed, the seller may collect or retain the minimum charge, as if earned, not exceeding the credit service charge contracted for.

(3) The unearned portion of the credit service charge is a fraction of the credit service charge of which the numerator is the sum of the periodic balances scheduled to follow the computational period in which prepayment occurs, and the denominator is the sum of all periodic balances under either the sale agreement or, if the balance owing resulted from a refinancing (IC 24-4.5-2-205) or a consolidation (IC 24-4.5-2-206), under the refinancing agreement or consolidation agreement.

(4) In this section:

- (a) "periodic balance" means the amount scheduled to be outstanding on the last day of a computational period before deducting the payment, if any, scheduled to be made on that day;
- (b) "computational period" means one (1) month if one-half (1/2) or more of the intervals between scheduled payments under the agreement is one (1) month or more, and otherwise means one (1) week;
- (c) the "interval" to the due date of the first scheduled installment or the final scheduled payment date is measured from the date of a sale, refinancing, or consolidation, or any later date prescribed for calculating maximum credit service charges (IC 24-4.5-2-201(4)) and includes either the first or last day of the interval; and
- (d) if the interval to the due date of the first scheduled installment

does not exceed one (1) month by more than fifteen (15) days when the computational period is one (1) month, or eleven (11) days when the computational period is one (1) week, the interval shall be considered as one (1) computational period.

(5) This subsection applies only if the schedule of payments is not regular.

(a) If the computational period is one (1) month and:

(i) if the number of days in the interval to the due date of the first scheduled installment is less than one (1) month by more than five (5) days, or more than one (1) month by more than five (5) but not more than fifteen (15) days, the unearned credit service charge shall be increased by an adjustment for each day by which the interval is less than one (1) month and, at the option of the seller, may be reduced by an adjustment for each day by which the interval is more than one (1) month; the adjustment for each day shall be one-thirtieth (1/30) of that part of the credit service charge earned in the computational period prior to the due date of the first scheduled installment assuming that period to be one (1) month; and

(ii) if the interval to the final scheduled payment date is a number of computational periods plus an additional number of days less than a full month, the additional number of days shall be considered a computational period only if sixteen (16) days or more. This subparagraph applies whether or not clause (i) applies.

(b) Notwithstanding paragraph (a), if the computational period is one (1) month, the number of days in the interval to the due date of the first installment exceeds one (1) month by not more than fifteen (15) days, and the schedule of payments is otherwise regular, the seller, at the seller's option, may exclude the extra days and the charge for the extra days in computing the unearned credit service charge; but if the seller does so and a rebate is required before the due date of the first scheduled installment, the seller shall compute the earned charge for each elapsed day as one-thirtieth (1/30) of the amount the earned charge would have been if the first interval had been one (1) month.

(c) If the computational period is one (1) week and:

(i) if the number of days in the interval to the due date of this first scheduled installment is less than five (5) days or more than nine (9) days but not more than eleven (11) days, the unearned credit service charge shall be increased by an adjustment for each day by which the interval is less than seven (7) days and, at the option of the seller, may be reduced by an adjustment for each day by which the interval is more than seven (7) days; the adjustment for each day shall be one-seventh (1/7) of that part of the credit service charge earned in the computational period prior to the due date of the first scheduled installment assuming that period to be one (1) week; and

(ii) if the interval to the final scheduled payment date is a number of computational periods plus an additional number of

days less than a full week, the additional number of days shall be considered a computational period only if five (5) days or more. This subparagraph applies whether or not subparagraph (i) applies.

(6) If a deferral (IC 24-4.5-2-204) has been agreed to, the unearned portion of the credit service charge shall be computed without regard to the deferral. The amount of deferral charge earned at the date of prepayment shall also be calculated. If the deferral charge earned is less than the deferral charge paid, the difference shall be added to the unearned portion of the credit service charge. If any part of a deferral charge has been earned but has not been paid, that part shall be subtracted from the unearned portion of the credit service charge or shall be added to the unpaid balance.

(7) This section does not preclude the collection or retention by the seller of delinquency charges (IC 24-4.5-2-203, repealed in 1994).

(8) If the maturity is accelerated for any reason and judgment is obtained, the buyer is entitled to the same rebate as if payment had been made on the date judgment is entered.

(9) Upon prepayment in full of a consumer credit sale by the proceeds of consumer credit insurance (IC 24-4.5-4-103), the buyer or the buyer's estate shall pay the same credit service charge or receive the same rebate as though the buyer had prepaid the agreement on the date the proceeds of the insurance are paid to the seller, but no later than ten (10) business days after satisfactory proof of loss is furnished to the seller. This subsection applies whether or not the credit sale is precomputed.

(10) Upon prepayment in full of a transaction with a term of more than sixty-one (61) months, the unearned part of the credit service charge shall be computed by applying the disclosed annual percentage rate that would yield the credit service charge originally contracted for to the unpaid balances of the amount financed for the full computational periods following the prepayment, as originally scheduled or as deferred.

(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by P.L.14-1992, SEC.18; P.L.122-1994, SEC.14; P.L.2-1995, SEC.91; P.L.176-1996, SEC.4.

IC 24-4.5-2-301

Applicability; information required

Sec. 301. (1) For purposes of this section, "consumer credit sale" includes the sale of an interest in land which is a mortgage transaction if the sale is otherwise a consumer credit sale (IC 24-4.5-2-104).

(2) The seller shall disclose to the buyer to whom credit is extended with respect to a consumer credit sale, and the lessor shall disclose to the lessee with respect to a consumer lease, the information required by the Federal Consumer Credit Protection Act.

(3) For purposes of subsection (2), disclosures shall not be required on a consumer credit sale if the transaction is exempt from the Federal Consumer Credit Protection Act.

(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by Acts 1981, P.L.218, SEC.4; P.L.247-1983, SEC.7; P.L.45-1995, SEC.6.

IC 24-4.5-2-302

Repealed

(Repealed by P.L.247-1983, SEC.26.)

IC 24-4.5-2-303

Repealed

(Repealed by P.L.247-1983, SEC.26.)

IC 24-4.5-2-304

Repealed

(Repealed by P.L.247-1983, SEC.26.)

IC 24-4.5-2-305

Repealed

(Repealed by P.L.247-1983, SEC.26.)

IC 24-4.5-2-306

Repealed

(Repealed by P.L.247-1983, SEC.26.)

IC 24-4.5-2-307

Repealed

(Repealed by P.L.247-1983, SEC.26.)

IC 24-4.5-2-308

Repealed

(Repealed by P.L.247-1983, SEC.26.)

IC 24-4.5-2-309

Repealed

(Repealed by P.L.247-1983, SEC.26.)

IC 24-4.5-2-310

Repealed

(Repealed by P.L.247-1983, SEC.26.)

IC 24-4.5-2-311

Repealed

(Repealed by P.L.247-1983, SEC.26.)

IC 24-4.5-2-312

Repealed

(Repealed by P.L.247-1983, SEC.26.)

IC 24-4.5-2-401

Scope

Sec. 401. Scope - This Part applies to consumer credit sales and consumer leases.

(Formerly: Acts 1971, P.L.366, SEC.3.)

IC 24-4.5-2-402

Use of multiple agreements

Sec. 402. Use of Multiple Agreements - A seller may not use multiple agreements with intent to obtain a higher credit service charge than would otherwise be permitted by this Article or to avoid disclosure of an annual percentage rate pursuant to the provisions on disclosure and advertising (Part 3). The excess amount of credit service charge provided for in agreements in violation of this section is an excess charge for the purposes of the provisions on the effect of violations on rights of parties (IC 24-4.5-5-202) and the provisions on civil actions by the department (IC 24-4.5-6-113).

(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by P.L.14-1992, SEC.19.

IC 24-4.5-2-403

Repealed

(Repealed by P.L.122-1994, SEC.122 and P.L.129-1994, SEC.3.)

IC 24-4.5-2-404

Repealed

(Repealed by P.L.45-1995, SEC.33.)

IC 24-4.5-2-405

Balloon payments

Sec. 405. (1) With respect to a consumer credit sale, other than one pursuant to a revolving charge account or one on which only credit service charges are payable before the time that the final scheduled payment is due, if any scheduled payment is more than twice as large as the average of earlier scheduled payments, the buyer has the right to refinance the amount of that payment at the time it is due without penalty. The terms of the refinancing shall be no less favorable to the buyer than the terms of the original sale. This section does not apply to the extent that the payment schedule is adjusted to the seasonal or irregular income of the buyer.

(2) For the purposes of this section, "terms of the refinancing" means:

- (a) in the case of a fixed-rate consumer credit sale, the individual payment amounts, the charges as a result of default by the buyer, and the rate of the credit service charge; and
- (b) in the case of a variable rate consumer credit sale, the method used to determine the individual payment amounts, the charges as a result of default by the buyer, the method used to determine the rate of the credit service charge, the circumstances under which the rate of the credit service charge may increase, and any limitations on the increase in the rate of the credit service charge.

(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by P.L.247-1983, SEC.10.

IC 24-4.5-2-406

Restriction on liability in consumer lease

Sec. 406. The obligation of a lessee upon expiration of a consumer lease may not exceed three (3) times the average payment allocable to a monthly period under the lease. This limitation does not apply to charges for damages to the leased property or for other default.
(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by P.L.247-1983, SEC.11; P.L.45-1995, SEC.7.

IC 24-4.5-2-407

Security in sales or leases

Sec. 407. (1) With respect to a consumer credit sale, a seller may take a security interest in the property sold. In addition, a seller may take a security interest in goods upon which services are performed or in which goods sold are installed or to which they are annexed, or in land to which the goods are affixed or which is maintained, repaired or improved as a result of the sale of the goods or services, if in the case of a security interest in land the debt secured is one thousand dollars (\$1,000) or more, or, in the case of a security interest in goods the debt secured is three hundred dollars (\$300) or more. Except as provided with respect to cross-collateral (IC 24-4.5-2-408), a seller may not otherwise take a security interest in property of the buyer to secure the debt arising from a consumer credit sale.

(2) With respect to a consumer lease, a lessor may not take a security interest in property of the lessee to secure the debt arising from the lease.

(3) A security interest taken in violation of this section is void.

(4) The amounts of one thousand dollars (\$1,000) and three hundred dollars (\$300) in subsection (1) are subject to change pursuant to the provisions on adjustment of dollar amounts (IC 24-4.5-1-106).
(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by P.L.247-1983, SEC.12.

IC 24-4.5-2-408

Cross-collateral

Sec. 408. Cross-Collateral - (1) In addition to contracting for a security interest pursuant to the provisions on security in sales or leases (24-4.5-2-407), a seller in a consumer credit sale may secure the debt arising from the sale by contracting for a security interest in other property if as a result of a prior sale the seller has an existing security interest in the other property. The seller may also contract for a security interest in the property sold in the subsequent sale as security for the previous debt.

(2) If the seller contracts for a security interest in other property pursuant to this section, the rate of credit service charge thereafter on the aggregate unpaid balances so secured may not exceed that permitted if the balances so secured were consolidated pursuant to the provisions on consolidation involving a refinancing (subsection (1) of 24-4.5-2-206). The seller has a reasonable time after so contracting to make any adjustments required by this section. "Seller" in this section does not include an assignee not related to the original seller.
(Formerly: Acts 1971, P.L.366, SEC.3.)

IC 24-4.5-2-409

Debt secured by cross-collateral

Sec. 409. (1) If debts arising from two (2) or more consumer credit sales, other than sales pursuant to a revolving charge account, are secured by cross-collateral (IC 24-4.5-2-408) or consolidated into one (1) debt payable on a single schedule of payments, and the debt is secured by security interests taken with respect to one (1) or more of the sales, payments received by the seller after the taking of the cross-collateral or the consolidation are deemed, for the purpose of determining the amount of the debt secured by the various security interests, to have been first applied to the payment of the debts arising from the sales first made. To the extent debts are paid according to this section, security interests in items of property terminate as the debt originally incurred with respect to each item is paid.

(2) Payments received by the seller upon a revolving charge account are deemed, for the purpose of determining the amount of the debt secured by the various security interests, to have been applied first to the payment of credit service charges in the order of their entry to the account and then to the payment of debts in the order in which the entries to the account showing the debts were made.

(3) If the debts consolidated arose from two (2) or more sales made on the same day, payments received by the seller are deemed, for the purpose of determining the amount of the debts secured by the various security interests, to have been applied first to the payment of the smallest debt.

(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by P.L.247-1983, SEC.13.

IC 24-4.5-2-410

No assignment of earnings

Sec. 410. No Assignment of Earnings - A seller or lessor may not take an assignment of earnings of the buyer or lessee for payment or as security for payment of a claim, whether arising out of a consumer credit sale, consumer lease or otherwise. An assignment of earnings in violation of this section is unenforceable by the assignees of the earnings and revocable by the buyer or lessee. This section does not prohibit an employee from authorizing deductions from his earnings if the authorization is revocable and is otherwise permitted by law.

(Formerly: Acts 1971, P.L.366, SEC.3.)

IC 24-4.5-2-411

Referral sales

Sec. 411. Referral Sales With respect to a consumer credit sale or consumer lease the seller or lessor may not give or offer to give a rebate or discount or otherwise pay or offer to pay value to the buyer or lessee as an inducement for a sale or lease in consideration of his giving to the seller or lessor the names of prospective purchasers or lessees, or otherwise aiding the seller or lessor in making a sale or lease to another person, if the earning of the rebate, discount or other value is contingent upon the occurrence of an event subsequent to the time the buyer or lessee agrees to buy or lease. If a buyer or lessee is

induced by a violation of this section to enter into a consumer credit sale or consumer lease, the agreement is unenforceable by the seller or lessor and the buyer or lessee, at his option, may rescind the agreement or retain the goods delivered and the benefit of any services performed, without any obligation to pay for them.

(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by Acts 1978, P.L.127, SEC.1.

IC 24-4.5-2-412

Notice of assignment

Sec. 412. Notice of Assignment - The buyer or lessee is authorized to pay the original seller or lessor until the buyer or lessee receives notification of assignment of the rights to payment pursuant to a consumer credit sale or consumer lease and that payment is to be made to the assignee. A notification which does not reasonably identify the rights assigned is ineffective. If requested by the buyer or lessee, the assignee must seasonably furnish reasonable proof that the assignment has been made and unless he does so the buyer or lessee may pay the seller or lessor.

(Formerly: Acts 1971, P.L.366, SEC.3.)

IC 24-4.5-2-413

Attorney's fees

Sec. 413. Attorney's Fees - With respect to a consumer credit sale or consumer lease the agreement may provide for the payment by the buyer or lessee of reasonable attorney's fees and after default and referral to an attorney not a salaried employee of the seller, or of the lessor or his assignee. A provision in violation of this section is unenforceable.

(Formerly: Acts 1971, P.L.366, SEC.3.)

IC 24-4.5-2-414

Limitation on default charges

Sec. 414. Limitation on Default Charges - Except for reasonable expenses incurred in realizing on a security interest, the agreement with respect to a consumer credit sale may not provide for any charges as a result of default by the buyer other than those authorized by this Article. A provision in violation of this section is unenforceable.

(Formerly: Acts 1971, P.L.366, SEC.3.)

IC 24-4.5-2-415

Authorization to confess judgment prohibited

Sec. 415. Authorization to Confess Judgment Prohibited - A buyer or lessee may not authorize any person to confess judgment on a claim arising out of a consumer credit sale or consumer lease. An authorization in violation of this section is void.

(Formerly: Acts 1971, P.L.366, SEC.3.)

IC 24-4.5-2-416

Repealed

(Repealed by P.L.122-1994, SEC.122.)

IC 24-4.5-2-501

Definition; "home solicitation sale"

Sec. 501. Definition: "Home Solicitation Sale" "Home solicitation sale" means a consumer credit sale of goods, other than farm equipment, or services in which:

- (1) the seller or a person acting for him engages in a personal solicitation of the sale, including a solicitation over the telephone, at a residence of the buyer and the buyer's agreement or offer to purchase is there given to the seller or a person acting for him; or
- (2) the seller or his agent, solicits a sale in a city or town in which the seller does not have a permanent business establishment, through mailings, advertisements, or telephone calls, which require the buyer to meet the seller or his agent at a place other than the seller's permanent business establishment.

It does not include a sale made pursuant to a preexisting revolving charge account, or a sale made pursuant to prior negotiations between the parties at a business establishment at a fixed location where goods or services are offered or exhibited for sale.

(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by Acts 1979, P.L.237, SEC.1.

IC 24-4.5-2-502

Buyer's right to cancel

Sec. 502. Buyer's Right to Cancel - The requirements of 16 CFR 429 must be met in regard to the following provisions concerning home solicitation sales:

- (1) Period within which cancellation may be made by the buyer.
- (2) Notice of cancellation.
- (3) Form of cancellation.
- (4) Form of agreement or offer to purchase.
- (5) Statement of buyer's rights.
- (6) Restoration of down payment.
- (7) Retention of cancellation fee.
- (8) Duty of buyer.
- (9) Any other relevant requirements in 16 CFR 429.

(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by P.L.14-1992, SEC.22.

IC 24-4.5-2-503

Repealed

(Repealed by P.L.14-1992, SEC.165.)

IC 24-4.5-2-504

Repealed

(Repealed by P.L.14-1992, SEC.165.)

IC 24-4.5-2-505

Repealed

(Repealed by P.L.14-1992, SEC.165.)

IC 24-4.5-2-601

Sale subject to article by agreement of parties

Sec. 601. Sale Subject to Article by Agreement of Parties. The parties to a sale other than a consumer credit sale may agree in a writing signed by the parties that the sale is subject to the provisions of this Article applying to consumer credit sales. If the parties so agree, the sale is a consumer credit sale for the purposes of this Article.

(Formerly: Acts 1971, P.L.366, SEC.3.)

IC 24-4.5-2-602

Definition; "consumer related sale"; rate of credit service charge

Sec. 602. (1) A "consumer related sale" is a sale of goods, services, or an interest in land which is not subject to the provisions of this article applying to consumer credit sales and in which the amount financed does not exceed fifty thousand dollars (\$50,000) if the buyer is a person other than an organization.

(2) With respect to a consumer related sale not made pursuant to a revolving charge account, the parties may contract for an amount comprising the amount financed and a credit service charge not in excess of twenty-one percent (21%) per year calculated according to the actuarial method on the unpaid balances of the amount financed.

(3) With respect to a consumer related sale made pursuant to a revolving charge account, the parties may contract for a credit service charge not in excess of that permitted by the provisions on credit service charge for revolving charge accounts (IC 24-4.5-2-207).

(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by Acts 1981, P.L.219, SEC.3; Acts 1982, P.L.149, SEC.3; P.L.5-1988, SEC.130; P.L.122-1994, SEC.15.

IC 24-4.5-2-603

Applicability of other provisions to consumer related sales

Sec. 603. Applicability of other Provisions to Consumer Related Sales - Except for the rate of the credit service charge (24-4.5-2-201) and the rights to prepay and to rebate upon prepayment, the provisions of Part 2 of this Chapter apply to a consumer related sale.

(Formerly: Acts 1971, P.L.366, SEC.3.)

IC 24-4.5-2-604

Limitation on default charges in consumer related sales

Sec. 604. Limitation on Default Charges in Consumer Related Sales. (1) The agreement with respect to a consumer related sale may provide for only the following charges as a result of the buyer's default:

- (a) reasonable attorney's fees and reasonable expenses incurred in realizing on a security interest;
- (b) deferral charges not in excess of twenty-one percent (21%) per year of the amount deferred for the period of deferral; and
- (c) other charges that could have been made had the sale been a consumer credit sale.

(2) A provision in violation of this section is unenforceable.

(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by Acts 1982, P.L.150, SEC.2.

IC 24-4.5-2-605

Credit service charge for other sales

Sec. 605. Credit Service Charge for Other Salest With respect to a sale other than a consumer credit sale or a consumer related sale, the parties may contract for the payment by the buyer of any credit service charge.

(Formerly: Acts 1971, P.L.366, SEC.3.)